

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

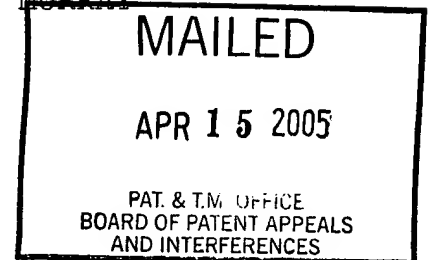
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFFREY D. MEYER, THOMAS A. MURRAY
and ALEXANDER C. RANOUS

Appeal No. 2005-0587
Application No. 09/560,509

ON BRIEF



Before OWENS, GROSS and BARRY, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

This appeal is from the final rejection of claims 1, 2, 4-14, 16-18 and 20-31, which are all of the pending claims.

THE INVENTION

The appellants claim a network usage recording system, method and computer readable medium wherein a configuration server stores configuration data for an encapsulator, an aggregator and a data storage system and determines whether a configurable collector that includes the encapsulator, aggregator

and data storage system operates as a network data collector or a correlator collector. Claim 1, which claims the system, is illustrative:

1. A network usage recording system comprising:

a collector including:

an encapsulator for reading a plurality of network data records from a network data source and converting the network data records to a plurality of normalized metered events;

an aggregator for processing the normalized metered events to create aggregated normalized metered events; and

a data storage system, wherein the aggregator periodically stores the aggregated normalized metered events in the data storage system; and

a configuration server in communication with the encapsulator, the aggregator and the data storage system, wherein the configuration server stores configuration data for the encapsulator, the aggregator, and the data storage system that determines whether the collector operates as a network data collector or a correlator collector.

THE REFERENCE

Bullard et al. (Bullard)	6,405,251	Jun. 11, 2002
		(filed Mar. 25, 1999)

THE REJECTION

Claims 1, 2, 4-14, 16-18 and 20-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Bullard.

OPINION

We reverse the aforementioned rejection.

Bullard discloses a system for collecting information from a network including network devices that can be different equipment types operating under different protocols and formats (col. 2, lines 26-30). The network devices are coupled via an equipment interface to an accounting process which includes individual data collectors that collect data from the network devices and convert the data into normalized records which Bullard calls "Network Accounting Records" (NARs) (col. 2, lines 39-48; col. 3, lines 43-51; col. 15, lines 51-55). The data collectors can aggregate NARs from individual data sources in a local store (col. 4, lines 22-25; col. 16, lines 1-2). The data collectors attempt to correlate a new NAR with other NARs by comparing the new NAR to NARs currently stored in the local store to determine if there are multiple instances of the same object (col. 16, lines 44-50). The accounting process includes a flow aggregation process that receives NARs periodically from the data collectors and aggregates them across the network devices (col. 4, lines 13-23; col. 16, lines 9-12).

The appellants' independent claims 1, 14 and 24 require a configuration server that stores configuration data for an encapsulator, an aggregator and a data storage system and determines whether a collector that comprises the encapsulator, aggregator and data storage system operates as a network data collector or a correlator collector. The appellants' independent claim 17 requires a step of storing, in a configuration server, configuration data for an encapsulator, an aggregator and a data storage system, where the configuration data determines whether a collector comprising the encapsulator, aggregator and data storage system operates as a data collector or a correlator collector. The appellants' independent claim 25 requires a configuration server that stores configuration data for each of a plurality of configurable collectors that determines the collector type for each collector, and requires that once configuration data is transferred to each configurable collector the collector becomes the collector type associated with the configuration data.

The examiner argues, regarding claim 1, that Bullard discloses "a configuration server 'Policy Server, (Fig 31, 754)' (Col 32, lines 43-67), (Fig 22) in communication with the encapsulator, the aggregator and the data storage system, wherein

the configuration server stores configuration data for the encapsulator, the aggregator and the data storage system, and the data storage system (Col 23, lines 10-25) that determines whether the collector operates as a network data collector or a correlator collector (Fig 14, 308) (Col 15, lines 45-65)" (answer, page 4). The examiner provides similar arguments with respect to the other independent claims (answer, pages 6, 7 and 9). Bullard's policy server communicates rules to the accounting process so that the accounting process can determine what kind of records to generate (col. 33, lines 11-13), and "keeps what is essentially enforcement of the levels of quality that are offered by different service types" (col. 33, lines 61-63). Bullard's policy server does not store configuration data for an encapsulator, an aggregator and a data storage system and determine whether a collector comprising the encapsulator, aggregator and data storage system operates as a network data collector or a correlator collector.

To the appellants' arguments regarding the configuration server (brief, pages 8-11 and 13-15) the examiner responds: "In the prior art, the function of data collector and correlator collector exist together and the system does not allow the option of choosing one function over another. The adjustable feature of

applicant[s'] invention is not considered to be patentable over the prior art being that both features are available in the prior art" (answer, page 12). Thus, the examiner acknowledges that a claim requirement argued by the appellants is not disclosed by Bullard.

The examiner has the initial burden of establishing a *prima facie* case of anticipation by pointing out where all of the claim limitations appear, either expressly or inherently, in a single reference. See *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990); *Corning Glass Works v. Sumitomo Elec. U.S.A., Inc.*, 868 F.2d 1251, 1255-56, 9 USPQ2d 1962, 1965 (Fed. Cir. 1989); *In re King*, 801 F.2d 1324, 1327, 231 USPQ 136, 138-39 (Fed. Cir. 1986). Because the examiner has not established that Bullard discloses, either expressly or inherently, a configuration server as recited in the appellants' independent claims, the examiner has not carried the burden of establishing a *prima facie* case of anticipation of the appellants' claimed invention. Accordingly, we reverse the examiner's rejection.

Appeal No. 2005-0587
Application No. 09/560,509

DECISION

The rejection of claims 1, 2, 4-14, 16-18 and 20-31 under
35 U.S.C. § 102(e) over Bullard is reversed.

REVERSED

Terry J. Owens

TERRY J. OWENS

Administrative Patent Judge

Anita Pellman Gross

ANITA PELLMAN GROSS

Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

Lance Leonard Barry
LANCE LEONARD BARRY

Administrative Patent Judge

TJO/hh

Appeal No. 2005-0587
Application No. 09/560,509

HEWLETT PACKARD CO.
P.O. BOX 272400, 3404 E. HARMONY RD.
INTELLECTUAL PROPERTY ADMIN.
FORT COLLINS, CO 80527-2400